

AMENDED IN SENATE JUNE 6, 2012
AMENDED IN SENATE AUGUST 23, 2011
AMENDED IN ASSEMBLY MAY 9, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 784

Introduced by Assembly Member Yamada

February 17, 2011

An act to amend Sections 1570.2, 1570.7, 1578, and 1585.5 of, and to add Sections 1584.5, 1587, and 1587.5 to, Section 1599.1 of the Health and Safety Code, relating to *health* care facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 784, as amended, Yamada. ~~Adult day health care. Long-term health care facilities: bed holds: appeals.~~

Under existing law, residents of long-term health care facilities have certain rights, including the right to be readmitted to a facility following a hospital stay, as specified, and the right, if denied readmission by the facility, to appeal this decision.

Existing law establishes the State Health Facilities Citation Penalties Account within the Special Deposit Fund, available upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities.

This bill would require the State Department of Health Care Services to conduct the appeal hearings. This bill would require that the State Department of Public Health be bound by a decision rendered by the State Department of Health Care Services. If readmission is ordered on appeal and the facility refuses to readmit the resident, the bill would

require the State Department of Health Care Services to refer the matter to the State Department of Public Health, and require the State Department of Public Health to assess a specified civil penalty against the facility each day, until the resident is readmitted or a maximum penalty amount is reached. This bill would increase these penalty amounts if the facility has previously refused after being ordered on appeal to readmit a resident. The bill would require that these penalties be deposited into the State Health Facilities Citation Penalties Account. The bill would authorize the State Department of Health Care Services and the State Department of Public Health to request that the Attorney General seek injunctive relief and damages pursuant to specified provisions of law. The bill would authorize the departments to implement these provisions by means of letters, provider bulletins, or other similar instructions.

~~Existing law, the California Adult Day Health Care Act, provides for the licensure and regulation of adult day health care centers, with administrative responsibility for the adult day health care program shared among the State Department of Public Health, the State Department of Health Care Services, and the California Department of Aging pursuant to an interagency agreement. Existing law provides that a negligent, repeated, or willful violation of a provision of the California Adult Day Health Care Act is a misdemeanor.~~

~~Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law, the Adult Day Health Medi-Cal Law, establishes adult day health care services as a Medi-Cal benefit and requires adult day health centers to offer, and provide directly on the premises, specified services. Existing law, with prescribed implementation, to the extent permitted by federal law, excludes adult day health care from coverage under the Medi-Cal program.~~

~~This bill would require an adult day health care center to have a prescribed program plan, as defined. This bill would provide the minimum staffing requirements for an adult day health care center.~~

~~Existing law requires an adult day health care center to provide services to each participant pursuant to an individual plan of care, as defined, designed to maintain or restore each participant's optimal capacity for self-care.~~

~~This bill would require this plan to be designed by the multidisciplinary team, composed, at a minimum, as prescribed. This bill would require an adult day health care center to provide certain services, as needed, to implement participants' individual plans of care in accordance with the program plan.~~

~~By changing the definition of a crime, this bill would create a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Nursing Facility Bed Hold Protection Act of 2012.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The protection of residents in California's nursing facilities
- 5 is of paramount importance to the citizens of California.
- 6 (b) Sixty-four percent of California nursing facility residents
- 7 have all or part of their care paid for by Medi-Cal.
- 8 (c) Nearly 40 percent of nursing home residents are hospitalized
- 9 at least once during their residency.
- 10 (d) State and federal law guarantee that a hospitalized resident's
- 11 bed will be held for at least seven days if the resident so elects.
- 12 The bed hold protects a resident's continuity of placement, ensures
- 13 that a decision to go to a hospital is unaffected by the risk of losing
- 14 his or her home, and protects residents from transfer trauma.
- 15 (e) Despite the bed hold requirements, nursing facilities often
- 16 refuse to hold a resident's bed, resulting in substantial costs to
- 17 the state in reimbursing acute care hospitals for administrative
- 18 days under Medi-Cal.
- 19 (f) A resident whose bed is not held may file a complaint with
- 20 the State Department of Public Health and request an appeal with
- 21 the State Department of Health Care Services.

1 (g) Even when a resident's appeal is granted and the nursing
2 facility is ordered to readmit the resident, many facilities refuse
3 to comply and do not suffer any adverse consequences.

4 (h) It is, therefore, the intent of the Legislature to enact
5 legislation that would do all of the following:

6 (1) Penalize nursing facilities that do not honor state and
7 federally required resident bed holds.

8 (2) Engage the licensed nursing staff at the State Department
9 of Public Health in a clinical review of a preliminary decision of
10 the State Department of Health Care Services to order the
11 readmission of a resident to determine if readmission is
12 appropriate.

13 (3) Engage the Attorney General to consider an action to defend
14 the bed hold rights of nursing facility residents.

15 SEC. 3. Section 1599.1 of the Health and Safety Code is
16 amended to read:

17 1599.1. Written policies regarding the rights of patients shall
18 be established and shall be made available to the patient, ~~to~~ any
19 guardian, next of kin, sponsoring agency or representative payee,
20 and ~~to~~ the public. Those policies and procedures shall ensure that
21 each patient admitted to the facility has the following rights and
22 is notified of the following facility obligations, in addition to those
23 specified by regulation:

24 (a) The facility shall employ an adequate number of qualified
25 personnel to carry out all of the functions of the facility.

26 (b) Each patient shall show evidence of good personal hygiene
27 and be given care to prevent bedsores, and measures shall be used
28 to prevent and reduce incontinence for each patient.

29 (c) The facility shall provide food of the quality and quantity
30 to meet the patients' needs in accordance with physicians' orders.

31 (d) The facility shall provide an activity program staffed and
32 equipped to meet the needs and interests of each patient and to
33 encourage self-care and resumption of normal activities. Patients
34 shall be encouraged to participate in activities suited to their
35 individual needs.

36 (e) The facility shall be clean, sanitary, and in good repair at all
37 times.

38 (f) A nurses' call system shall be maintained in operating order
39 in all nursing units and provide visible and audible signal
40 communication between nursing personnel and patients. Extension

1 cords to each patient's bed shall be readily accessible to patients
2 at all times.

3 (g) (1) If a facility has a significant beneficial interest in an
4 ancillary health service provider or if a facility knows that an
5 ancillary health service provider has a significant beneficial interest
6 in the facility, as provided by subdivision (a) of Section 1323, or
7 if the facility has a significant beneficial interest in another facility,
8 as provided by subdivision (c) of Section 1323, the facility shall
9 disclose that interest in writing to the patient, or his or her
10 representative, and advise the patient, or his or her representative,
11 that the patient may choose to have another ancillary health service
12 provider, or facility, as the case may be, provide any supplies or
13 services ordered by a member of the medical staff of the facility.

14 (2) A facility is not required to make any disclosures required
15 by this subdivision to any patient, or his or her representative, if
16 the patient is enrolled in an organization or entity that provides or
17 arranges for the provision of health care services in exchange for
18 a prepaid capitation payment or premium.

19 (h) (1) If a resident of a long-term health care facility has been
20 hospitalized in an acute care hospital and asserts his or her rights
21 to readmission pursuant to bed hold provisions, or readmission
22 rights of either state or federal law, and the facility refuses to
23 readmit him or her, the resident may appeal the facility's refusal.
24 *Appeal hearings shall be conducted by the State Department of*
25 *Health Care Services. The State Department of Public Health shall*
26 *be bound by the decision rendered by the State Department of*
27 *Health Care Services.*

28 (2) The refusal of the facility as described in this subdivision
29 shall be treated as if it were an involuntary transfer under federal
30 law, and the rights and procedures that apply to appeals of transfers
31 and discharges of nursing facility residents shall apply to the
32 resident's appeal under this subdivision.

33 (3) If the resident appeals pursuant to this subdivision, and the
34 resident is eligible under the Medi-Cal program, the resident shall
35 remain in the hospital and the hospital may be reimbursed at the
36 administrative day rate, pending the final determination of the
37 hearing officer, unless the resident agrees to placement in another
38 facility.

39 (4) If the resident appeals pursuant to this subdivision, and the
40 resident is not eligible under the Medi-Cal program, the resident

1 shall remain in the hospital if other payment is available, pending
2 the final determination of the hearing officer, unless the resident
3 agrees to placement in another facility.

4 (5) If the resident is not eligible for participation in the Medi-Cal
5 program and has no other source of payment, the hearing and final
6 determination shall be made within 48 hours.

7 (6) (A) (i) *If readmission is ordered on appeal and the facility*
8 *refuses to readmit the resident after it receives the decision, the*
9 *State Department of Health Care Services shall refer the matter*
10 *to the State Department of Public Health. The State Department*
11 *of Public Health shall assess a civil penalty of one hundred dollars*
12 *(\$100) per day, and the amount of the penalty shall increase by*
13 *one hundred dollars (\$100) each subsequent day that the resident*
14 *is not readmitted until it reaches five hundred dollars (\$500) on*
15 *the fifth day. Thereafter, the penalty amount shall be five hundred*
16 *dollars (\$500) per day against the facility until the resident is*
17 *readmitted, up to a total of one hundred thousand dollars*
18 *(\$100,000).*

19 (ii) *Notwithstanding clause (i), if the facility has previously*
20 *refused to readmit a resident after receiving an order following*
21 *an appeal hearing to readmit a resident pursuant to clause (i), the*
22 *State Department of Public Health shall assess a civil penalty of*
23 *one thousand dollars (\$1,000) per day against the facility until*
24 *the resident is readmitted, up to a total of one hundred fifty*
25 *thousand dollars (\$150,000).*

26 (iii) *Upon receiving the referral from the State Department of*
27 *Health Care Services pursuant to this subparagraph, the State*
28 *Department of Public Health shall issue a notice within 10 days*
29 *to the facility of the civil penalty assessment, informing the facility*
30 *of its current penalty amount, the amount that is immediately due*
31 *and payable, and an explanation of how the penalty shall accrue*
32 *until the resident is readmitted.*

33 (iv) *Penalties collected pursuant to this paragraph shall be*
34 *deposited into the State Health Facilities Citation Penalties*
35 *Account created pursuant to Section 1417.2. The State Department*
36 *of Health Care Services and the State Department of Public Health*
37 *may request that the Attorney General seek injunctive relief to*
38 *enforce the appeal decision and damages in the same manner as*
39 *provided for in Chapter 5 (commencing with Section 17200) of*
40 *Part 2 of Division 7 of the Business and Professions Code. If the*

1 *Attorney General prevails, the facility shall be liable for costs and*
2 *attorney's fees.*

3 *(B) The State Department of Health Care Services may withhold*
4 *or deduct any Medi-Cal reimbursement payments to the facility*
5 *to collect the civil penalties assessed pursuant to this paragraph.*
6 *If any penalty assessed under this paragraph remains unpaid 60*
7 *days after payment is due, the State Department of Health Care*
8 *Services or the State Department of Public Health may assess a*
9 *penalty equal to 50 percent of the unpaid penalty amount and may*
10 *seek to delay the renewal of the facility's license.*

11 *(C) Civil penalties collected pursuant to this section shall be*
12 *immediately due and payable, notwithstanding any appeals, and*
13 *shall not be eligible for any reductions pursuant to subdivision (b)*
14 *of Section 1424.5, Section 1428.1, or any other law or rule.*

15 *(D) Notwithstanding the rulemaking provisions of the*
16 *Administrative Procedure Act (Chapter 3.5 (commencing with*
17 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
18 *Code), or any other provision of law, the State Department of*
19 *Health Care Services and the State Department of Public Health*
20 *may implement this paragraph, in whole or in part, by means of*
21 *letters, provider bulletins, or other similar instructions without*
22 *taking regulatory action.*

23 *(E) If the facility is granted a writ of mandate pursuant to*
24 *Section 1094.5 of the Code of Civil Procedure, the facility shall*
25 *receive a refund of the civil penalties paid pursuant to this*
26 *paragraph.*

27 *(i) Effective July 1, 2007, Sections 483.10, 483.12, 483.13, and*
28 *483.15 of Title 42 of the Code of Federal Regulations in effect on*
29 *July 1, 2006, shall apply to each skilled nursing facility and*
30 *intermediate care facility, regardless of a resident's payment source*
31 *or the Medi-Cal or Medicare certification status of the skilled*
32 *nursing facility or intermediate care facility in which the resident*
33 *resides, except that a noncertified facility is not obligated to provide*
34 *notice of Medicaid or Medicare benefits, covered services, or*
35 *eligibility procedures.*

36 ~~SECTION 1. Section 1570.2 of the Health and Safety Code is~~
37 ~~amended to read:~~

38 ~~1570.2. The Legislature hereby finds and declares that there~~
39 ~~exists a pattern of overutilization of institutional care for elderly~~
40 ~~persons, adults with disabilities, and acutely or chronically ill adults~~

1 and that there is an urgent need to establish and to continue a
2 community-based system of quality adult day health care which
3 will enable elderly persons, adults with disabilities, and acutely or
4 chronically ill adults to maintain maximum independence. While
5 recognizing that there continues to be a substantial need for
6 facilities providing 24-hour custodial care, overreliance on this
7 type of care has proven to be a costly panacea in both financial
8 and human terms, often traumatic, and destructive of continuing
9 family relationships and the capacity for independent living.

10 It is, therefore, the intent of the Legislature in enacting this
11 chapter and related provisions to provide for the development of
12 policies and programs that will accomplish the following:

13 (a) ~~Ensure that elderly persons, adults with disabilities, and~~
14 ~~acutely or chronically ill adults are not institutionalized~~
15 ~~inappropriately or prematurely.~~

16 (b) ~~Provide a viable alternative to the utilization of institutional~~
17 ~~services for those elderly persons, adults with disabilities, and~~
18 ~~acutely or chronically ill adults who are capable of living at home~~
19 ~~with the aid of appropriate health care or rehabilitative and social~~
20 ~~services.~~

21 (c) ~~Establish adult day health centers in the community for this~~
22 ~~purpose, that will be easily accessible to all participants, including~~
23 ~~economically disadvantaged elderly persons, adults with~~
24 ~~disabilities, and acutely or chronically ill adults and that will~~
25 ~~provide person-centered outpatient health, rehabilitative, and social~~
26 ~~services necessary to permit the participants to gain or maintain~~
27 ~~personal independence and lead meaningful lives.~~

28 (d) ~~Include the services of adult day health centers as a benefit~~
29 ~~under the Medi-Cal Act, that shall be an initial and integral part~~
30 ~~in the development of an overall plan for a coordinated,~~
31 ~~comprehensive continuum of optional long-term care services~~
32 ~~based upon appropriate need.~~

33 (e) ~~Establish a rural alternative adult day health care program~~
34 ~~designed to meet the special needs and requirements of rural areas~~
35 ~~to enable the implementation of subdivisions (a) through (d),~~
36 ~~inclusive, for all Californians in need of those services.~~

37 (f) ~~Ensure that all laws, regulations, and procedures governing~~
38 ~~adult day health care be enforced equitably regardless of~~
39 ~~organizational sponsorship and that all program flexibility~~
40 ~~provisions be administered equitably.~~

1 ~~SEC. 2. Section 1570.7 of the Health and Safety Code, as~~
2 ~~amended by Chapter 119 of the Statutes of 2011, is amended to~~
3 ~~read:~~

4 ~~1570.7. As used in this chapter and in any regulations~~
5 ~~promulgated thereunder:~~

6 ~~(a) “Adult day health care” means an organized outpatient~~
7 ~~program utilizing a patient-centered multidisciplinary team~~
8 ~~approach to manage physical, cognitive, and behavioral health~~
9 ~~conditions for the purpose of restoring or maintaining an~~
10 ~~individual’s optimal health and functioning. Provided on a~~
11 ~~short-term basis, adult day health care serves as a site for~~
12 ~~transitioning from a health facility to the community with the goal~~
13 ~~of preventing avoidable emergency department visits and inpatient~~
14 ~~readmissions and restoring optimal health. Provided over a longer~~
15 ~~term, it serves to deter institutionalization and overuse of more~~
16 ~~costly medical resources.~~

17 ~~(b) “Adult day health center” or “adult day health care center”~~
18 ~~means a licensed facility that provides adult day health care.~~

19 ~~(c) “Average daily attendance” means the average number of~~
20 ~~participants attending the adult day health care center daily,~~
21 ~~calculated over the past month.~~

22 ~~(d) “Core staff” includes the positions of program director,~~
23 ~~registered nurse, social worker, activity director, and program aide.~~

24 ~~(e) “Department” or “state department” means the State~~
25 ~~Department of Public Health.~~

26 ~~(f) “Director” means the State Public Health Officer.~~

27 ~~(g) “Elderly” or “older person” means a person 55 years of age~~
28 ~~or older.~~

29 ~~(h) “Extended hours” means those hours of operation prior to~~
30 ~~or following the adult day health care program hours of service,~~
31 ~~as designated by the adult day health care center in its plan of~~
32 ~~operation, during which the adult day health care center may~~
33 ~~operate an adult day program, or an Alzheimer’s day care resource~~
34 ~~center, or both.~~

35 ~~(i) “Full-time” means the total program hours of service per~~
36 ~~week.~~

37 ~~(j) “Half-time” means 50 percent of full-time.~~

38 ~~(k) “Hours of operation” means the regular hours during which~~
39 ~~the adult day health care center is open and any staff are on the~~
40 ~~premises, including, but not limited to, hours during which no~~

1 participants are scheduled to attend but the doors are open to
2 conduct business operations.

3 (l) “Hours of service” means the program hours defined and
4 posted by the adult day health care center during which core staff
5 and participants are present for the provision of adult day health
6 care services.

7 (m) “Individual plan of care” means a plan designed to provide
8 recipients of adult day health care with appropriate treatment in
9 accordance with the assessed needs of each individual participant
10 within the facility’s scope of services, as defined in the program
11 plan.

12 (n) “Institutional services” includes any 24-hour health facility
13 and a hospital emergency department.

14 (o) “License” means a basic permit to operate an adult day health
15 care center. With respect to a health facility licensed pursuant to
16 Chapter 2 (commencing with Section 1250), “license” means a
17 special permit, as defined by Section 1251.5, empowering the
18 health facility to provide adult day health care services.

19 (p) “Long-term absence” or “long-term vacancy” means a staff
20 absence or vacancy lasting, or expected to last, longer than one
21 month.

22 (q) “Maintenance program” means procedures and exercises
23 that are performed repetitively to maintain a level of functioning
24 when a patient’s restoration potential is insignificant in relation to
25 the therapy required to achieve that potential, when it has been
26 determined that the treatment goals will not materialize, or when
27 the therapy performed is considered to be a general exercise
28 program. These procedures and exercises are planned by a licensed
29 or certified therapist and are provided by a person who has been
30 trained by a licensed or certified therapist and who is directly
31 supervised by a nurse.

32 (r) “Personal health care provider” means the participant’s
33 personal physician, physician’s assistant, or nurse practitioner,
34 operating within his or her scope of practice.

35 (s) “Program aide” means a person, supervised by the program
36 director or other members of the multidisciplinary team, whose
37 job duties include, but are not limited to, provision of personal
38 care, assistance with activities, transportation, or other services,
39 as assigned.

1 ~~(t) “Program director” shall be a person with both of the~~
2 ~~following:~~

3 ~~(1) One of the following backgrounds:~~

4 ~~(A) A person with a bachelor’s degree and a minimum of two~~
5 ~~years of experience in a management, supervisory, or~~
6 ~~administrative position.~~

7 ~~(B) A person with a master’s degree and a minimum of one year~~
8 ~~of experience in a management, supervisory, or administrative~~
9 ~~position.~~

10 ~~(C) A registered nurse with a minimum of two years experience~~
11 ~~in a management, supervisory, or administrative position.~~

12 ~~(2) Appropriate skills, knowledge, and abilities related to the~~
13 ~~health, and mental, cognitive, and social needs of the participant~~
14 ~~group being served by the adult day health center.~~

15 ~~(u) “Program plan” means a written description of the adult day~~
16 ~~health care center’s philosophy, objectives, and processes for~~
17 ~~providing required services to the participant populations.~~

18 ~~(v) “Restorative therapy” means physical, occupational, and~~
19 ~~speech therapy, and psychiatric and psychological services that~~
20 ~~are planned and provided by a licensed or certified therapist. The~~
21 ~~therapy and services may also be provided by an assistant or aide~~
22 ~~under the appropriate supervision of a licensed therapist, as~~
23 ~~determined by the licensed therapist. The therapy and services are~~
24 ~~provided to restore function, when there is an expectation that the~~
25 ~~condition will improve significantly within a reasonable period of~~
26 ~~time, as determined by the multidisciplinary assessment team.~~

27 ~~(w) “Short-term absence” or “short-term vacancy” means a staff~~
28 ~~absence or vacancy lasting, or expected to last, one month or less,~~
29 ~~and includes sick leave and vacations, but does not include periods~~
30 ~~during which staff are absent from the facility performing~~
31 ~~program-related duties.~~

32 ~~(x) “Social worker” shall be a person who meets one of the~~
33 ~~following:~~

34 ~~(1) The person holds a master’s degree in social work from an~~
35 ~~accredited school of social work.~~

36 ~~(2) The person holds a master’s degree in psychology,~~
37 ~~gerontology, or counseling from an accredited school and has one~~
38 ~~year of experience providing social services in one or more of the~~
39 ~~fields of aging, health, or long-term care services.~~

1 ~~(3) The person is licensed by the California Board of Behavioral~~
2 ~~Sciences.~~

3 ~~(4) The person holds a bachelor's degree in social work from~~
4 ~~an accredited school with two years of experience providing social~~
5 ~~services in one or more of the fields of aging, health, or long-term~~
6 ~~care services.~~

7 ~~SEC. 3. Section 1578 of the Health and Safety Code is amended~~
8 ~~to read:~~

9 ~~1578. (a) A provider may share space with another licensed~~
10 ~~health facility, community care facility, senior center, or other~~
11 ~~appropriate structure, upon the approval of the department, based~~
12 ~~upon a determination of all of the following:~~

13 ~~(1) The use of the shared space does not jeopardize the welfare~~
14 ~~of the participant or other clients.~~

15 ~~(2) The shared use does not exceed occupancy capacity~~
16 ~~established for fire safety.~~

17 ~~(3) The space used by the adult day health care center is not~~
18 ~~essential to meet the other program's licensing requirements.~~

19 ~~(4) Each entity schedules services and activities at separate~~
20 ~~times. This subdivision shall not apply to space used for meals or~~
21 ~~for space used by another licensed adult day services program.~~

22 ~~(b) For purposes of this section, "shared space" means the~~
23 ~~mutual use of exits and entrances, offices, hallways, bathrooms,~~
24 ~~treatment rooms, and dining rooms by an adult day health care~~
25 ~~center and another program pursuant to Section 1578.1.~~

26 ~~SEC. 4. Section 1584.5 is added to the Health and Safety Code,~~
27 ~~to read:~~

28 ~~1584.5. An adult day health care center shall have a program~~
29 ~~plan that shall contain all of the following:~~

30 ~~(a) The total number of participants the center proposes to serve,~~
31 ~~or currently serves, daily.~~

32 ~~(b) A profile of the participant population the center proposes~~
33 ~~to serve, or currently serves, that includes a description of the~~
34 ~~specific medical, social, and other needs of each population.~~

35 ~~(c) A description of the specific services provided to address~~
36 ~~the medical, social, and other needs of each participant population~~
37 ~~that the center proposes to serve, or currently serves, as specified~~
38 ~~in subdivision (b).~~

39 ~~(d) A description of the specialized professional and program~~
40 ~~staff that will provide, or currently provides, the adult day health~~

1 care center's program services, as specified in subdivision (c), and
2 that staff's responsibilities. The plan shall demonstrate that the
3 adult day health care center is organized and staffed to carry out
4 the requirements as specified in the regulations adopted pursuant
5 to Section 1580.

6 (e) ~~An in-service training plan for each center staff member to~~
7 ~~commence within the first six months of employment. The training~~
8 ~~plan shall address, at a minimum, the specific medical, social, and~~
9 ~~other needs of each participant population the center proposes to~~
10 ~~serve, as specified in subdivision (b).~~

11 (f) ~~An example of a one-week schedule of daily program~~
12 ~~services.~~

13 (g) ~~A plan for a behavior modification program if such a~~
14 ~~program will be used as a basic intervention for meeting the needs~~
15 ~~of a special population, such as persons with developmental~~
16 ~~disabilities or persons with mental disabilities. The plan, as applied~~
17 ~~to persons with developmental disabilities, shall be consistent with~~
18 ~~Section 4503 of the Welfare and Institutions Code.~~

19 SEC. 5. ~~Section 1585.5 of the Health and Safety Code is~~
20 ~~amended to read:~~

21 1585.5. (a) ~~Adult day health care centers shall provide services~~
22 ~~to each participant pursuant to an individual plan of care designed~~
23 ~~by the multidisciplinary team to maintain or restore each~~
24 ~~participant's optimal capacity for self-care.~~

25 (b) ~~The multidisciplinary team shall be composed of, at a~~
26 ~~minimum, the staff physician or the participant's personal health~~
27 ~~care provider, the registered nurse, the social worker, the program~~
28 ~~director, and, as needed, an occupational therapist, physical~~
29 ~~therapist, or speech and language pathologist. The multidisciplinary~~
30 ~~team shall assess the needs of the participant and develop the~~
31 ~~participant's individual plan of care.~~

32 SEC. 6. ~~Section 1587 is added to the Health and Safety Code,~~
33 ~~to read:~~

34 1587. (a) ~~The minimum staffing requirements for an adult day~~
35 ~~health care center shall be as follows:~~

36 (1) ~~A full-time program director shall be employed to implement~~
37 ~~the program plan, and supervise and coordinate staff.~~

38 (2) ~~Program aides shall be employed in a sufficient number to~~
39 ~~meet the personal care and supervision needs of the participants~~
40 ~~during program hours of service or extended program hours, but~~

1 in no event shall the program aides employed be fewer than a ratio
2 of one-half aide for every increment of eight participants being
3 cared for during program hours of service. Program aides shall be
4 qualified by education, training, and experience to perform the
5 duties assigned and meet the needs of the program.

6 ~~(3) A full-time registered nurse shall be employed to oversee~~
7 ~~the provision of nursing services. A half-time vocational nurse~~
8 ~~shall be provided for each increment of 10 in average daily~~
9 ~~attendance exceeding 40, calculated monthly, and which has been~~
10 ~~sustained over each of the prior three calendar months.~~

11 ~~(4) A full-time social worker shall be employed to provide direct~~
12 ~~skilled social work services and to oversee the provision of social~~
13 ~~services. A half-time social work assistant shall be provided for~~
14 ~~each increment of 10 in average daily attendance exceeding 40,~~
15 ~~calculated monthly, and which has been sustained over each of~~
16 ~~the prior three calendar months.~~

17 ~~(5) A full-time activity director shall be employed to direct the~~
18 ~~activity program. The activity director may be counted in the ratio~~
19 ~~for calculating the necessary direct care staff defined in subdivision~~
20 ~~(b).~~

21 ~~(6) A licensed nurse shall be on duty during the defined program~~
22 ~~hours of service.~~

23 ~~(b) The adult day health care center's policies and procedures~~
24 ~~shall be specific regarding the provision of adequate staffing for~~
25 ~~coverage with qualified personnel for long-term and short-term~~
26 ~~absences or vacancies. Regardless of the reason for the staff~~
27 ~~absence or vacancy, the adult day health care center shall provide~~
28 ~~sufficient staffing to ensure participant safety and shall designate~~
29 ~~appropriate substitute staff as needed.~~

30 ~~SEC. 7. Section 1587.5 is added to the Health and Safety Code,~~
31 ~~to read:~~

32 ~~1587.5. The minimum services that shall be provided by an~~
33 ~~adult day health care center, as needed, to implement participants'~~
34 ~~individual plans of care, in accordance with the program plan, are~~
35 ~~as follows:~~

36 ~~(a) Occupational therapy services.~~

37 ~~(b) Pharmacist consulting services to assist with implementation~~
38 ~~of the center's medication policies and procedures and to consult~~
39 ~~on individual participant drug regimens.~~

40 ~~(c) Physical therapy services.~~

1 ~~(d) Psychiatric or psychological consulting services provided~~
2 ~~by a qualified licensed practitioner.~~

3 ~~(e) Skilled dietary consulting services.~~

4 ~~(f) Speech and language pathology services.~~

5 ~~SEC. 8. No reimbursement is required by this act pursuant to~~
6 ~~Section 6 of Article XIII B of the California Constitution because~~
7 ~~the only costs that may be incurred by a local agency or school~~
8 ~~district will be incurred because this act creates a new crime or~~
9 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
10 ~~for a crime or infraction, within the meaning of Section 17556 of~~
11 ~~the Government Code, or changes the definition of a crime within~~
12 ~~the meaning of Section 6 of Article XIII B of the California~~
13 ~~Constitution.~~

14 ~~SEC. 9. This act is an urgency statute necessary for the~~
15 ~~immediate preservation of the public peace, health, or safety within~~
16 ~~the meaning of Article IV of the Constitution and shall go into~~
17 ~~immediate effect. The facts constituting the necessity are:~~

18 ~~In order to ensure that adult day health care centers may remain~~
19 ~~open, providing services to elderly persons, adults with disabilities,~~
20 ~~and acutely or chronically ill adults with the elimination of adult~~
21 ~~day health care as a Medi-Cal benefit, it is necessary that this act~~
22 ~~take effect immediately.~~